

48A C.J.S. Judges § 367

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

X. Special or Substitute Judges and Like Judicial Officers

C. Authority, Powers, and Duties of Special or Substitute Judge

§ 367. Comparison of powers of special or substitute judge with regular judge

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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A special or substitute judge has the same jurisdiction as the judge in whose stead he or she presides and acts in the same capacity as a regular member of that court.

When a judge sits by assignment in a specific court, he or she has the same jurisdiction as the judge in whose stead the assigned judge presides and acts in the same capacity as a regular member of that court.¹ Generally, a special or substitute judge, during the period of his or her incumbency, has, as to matters within his or her jurisdiction, all the powers possessed by the regular judge of the court² so long as the law permitting the special or substitute judge to act is complied with.³ Thus, the rulings of special and substitute judges are entitled to the same weight and credit as those of regular judges.⁴

A special or substitute judge is also governed by those conditions that are attached to the status and activities of the regular judge,⁵ and such judge is subject to all statutory provisions and rules of law governing the conduct of a regular judge.⁶ A special or substitute judge has no greater authority than a regular judge except where additional power is especially conferred by the legislature.⁷

The Code of Judicial Conduct applies only to special judges during the period of time they are performing judicial duties.⁸

CUMULATIVE SUPPLEMENT

Cases:

Senior District Judge from district outside the judge's circuit, who had been properly designated and assigned by Chief Justice to specific and enumerated cases in District of Columbia Circuit, lacked jurisdiction to preside in another case challenging under the Second Amendment the District of Columbia's gun licensing laws, even if other case was related to one of the cases for which judge had been properly designated and assigned. *U.S.C.A. Const.Amend. 2*; 28 *U.S.C.A. § 294(c-e)*. *Wrenn v. District of Columbia*, 808 F.3d 81 (D.C. Cir. 2015).

[END OF SUPPLEMENT]

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Footnotes

- 1

Alaska—*Stephens v. Hammersley*, 550 P.2d 1268 (Alaska 1976), on reh'g, 552 P.2d 652 (Alaska 1976).

N.Y.—*Moritt v. Nadjari*, 51 A.D.2d 754, 380 N.Y.S.2d 33 (2d Dep't 1976).

After recusal of original judge

Tex.—*In re PG & E Reata Energy, L.P.*, 4 S.W.3d 897 (Tex. App. Corpus Christi 1999).
- 2

Ga.—*Giles v. State*, 257 Ga. App. 65, 570 S.E.2d 375 (2002).

Tex.—*Davis v. Crist Industries, Inc.*, 98 S.W.3d 338 (Tex. App. Fort Worth 2003).

Judge pro tempore entitled to full judicial immunity

U.S.—*Bendiburg v. Dempsey*, 692 F. Supp. 1354 (N.D. Ga. 1988).

Authorized to sign final judgment

Tex.—*Reyes v. Booth*, 2003 WL 21663708 (Tex. App. Eastland 2003).
- 3

Ga.—*Adams v. Payne*, 219 Ga. 638, 135 S.E.2d 423 (1964).
- 4

U.S.—*U.S. v. Teresi*, 484 F.2d 894 (7th Cir. 1973).

Okla.—*Kellenberger v. Guaranty Loan and Inv. Corp. of Tulsa*, 1974 OK CIV APP 23, 530 P.2d 574 (Ct. App. Div. 1 1974).

De facto judges, see § 368.

Judgment appealable

Cal.—*Kajima Engineering and Construction, Inc. v. Pacific Bell*, 103 Cal. App. 4th 1397, 127 Cal. Rptr. 2d 464 (4th Dist. 2002).
- 5

Mass.—*Opinion of the Justices*, 370 Mass. 886, 352 N.E.2d 673 (1976).

N.Y.—*Moritt v. Nadjari*, 51 A.D.2d 754, 380 N.Y.S.2d 33 (2d Dep't 1976).
- 6

W. Va.—*Village of Barboursville v. Hereford*, 133 W. Va. 375, 56 S.E.2d 206 (1949).
- 7

Md.—*Willoner v. Davis*, 30 Md. App. 444, 353 A.2d 267 (1976), judgment aff'd, 278 Md. 534, 365 A.2d 1004 (1976).
- 8

Ky.—*McDonald v. Ethics Committee of the Kentucky Judiciary*, 3 S.W.3d 740 (Ky. 1999), as amended, (Nov. 15, 1999).

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